



Via Facsimile and Electronic Mail

December 12, 2022

City of Dunbar, West Virginia
Dunbar Police Department
1227 Leone Lane
Dunbar, WV 25064
Facsimile: 304-766-0230
Email: boxley@dunbarwvdpd.org

Re: Anthony Reese

To Whom It May Concern:

Calwell Luce diTrapano, PLLC, has been retained by Anthony Reese, to pursue and investigate potential claims against the City of Dunbar and the Dunbar Police Department related to excessive force and injuries sustained by your officers. It is our understanding, through our investigation that is ongoing, that Mr. Reese was transported to Thomas Memorial Hospital from Dunbar Police Department by ambulance, to receive medical treatment for the injuries that he received from the assault from your on duty officers.

Please be advised that electronically stored information would be an important and irreplaceable source of discovery and/or evidence in the above-referenced matter. We expect that you are already aware of and have communicated to other appropriate individuals your requirements to retain and preserve documents and records that may be potentially relevant to the matter. However, if you have not already done so, you should immediately take all steps necessary to identify, retain, and preserve all documents and electronically stored information (“ESI”) relevant to this matter. The failure to preserve and retain the electronic data and evidence outlined in this notice may constitute spoliation of evidence which may subject you to legal claims for damages and/or evidentiary and monetary sanctions.

For purposes of this notice, the duty to preserve attaches at the time you and relevant individuals subject to these obligations knew of or should have known that litigation might occur. ESI should be afforded the broadest possible definition and includes (by way of example and not as an exclusive list) potentially relevant information electronically, magnetically, or optically stored as:

- Digital communications (e.g., e-mail, voice mail, instant messaging, online chat, text messaging, iMessaging, etc.);
- Word processed documents (e.g., Word or WordPerfect documents and drafts);
- Spreadsheets and tables (e.g., Excel or Lotus 123 worksheets);
- Accounting Application Data (e.g., Quickbooks, Money, Peachtree data files);
- Image and Facsimile Files (e.g., PDF, TIFF, JPG, GIF images);
- Sound Recordings (e.g., WAV and .MPS files);
- Video and Animation (e.g., AVI and .MOV files);

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- Databases (e.g., Access, Oracle, SQL Server data, SAP);
- Contact and Relationship Management Data (e.g., Outlook, ACT!);
- Calendar and Diary Application Data (e.g., Outlook PST, Yahoo, blog tools);
- Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- Presentations (e.g., PowerPoint, Corel Presentations);
- Network Access and Server Activity Logs;
- Project Management Application Data;
- Computer Aided Design/Drawing Files; and,
- Backup and Archival Files (e.g., ZIP, .GHQ).

This demand that you preserve both accessible and inaccessible ESI is reasonable and necessary. Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. You must also intervene to prevent loss due to routine operations and employ proper techniques and protocols suited to protection of ESI. Specifically, you should not destroy, disable, erase, encrypt, alter, or otherwise make unavailable any electronic data and/or evidence relevant to Mr. Reese's claims. To meet this burden, you are instructed by way of example and not limitation, to:

- Preserve all data storage backup files (i.e., not overwrite any previously existing backups);
- Preserve and retain all electronic data generated or received by co-workers, former coworkers, friends, and family who may have personal knowledge of the facts involved in the claims of Mr. Reese;
- Refrain from operating, removing or altering, fixed or external drives and media attached to any workstations or laptops, voice mail systems, cell phones, and/or copy machines that are reasonably thought to have data related to the claims;
- Preserve and retain all data from servers and networking equipment logging network access activity and system authentication;
- Preserve and retain all electronic data in any format, media, or location relating to the claims, including data on hard drives, hard disks, floppy disks, zip drives, CD-ROMs, CDRWs, DVDs, backup tapes, PDAs, cell phones, smart phones, memory cards/sticks, or digital copiers or facsimile machines;
- Prevent anyone from deleting or overwriting any electronic data related to the Mr. Reese's claim;
- Take such other security measures, including, but not limited to, restricting physical and electronic access to all electronically stored data directly or indirectly related to Mr. Reese; and
- To facilitate the retrieval of said data, be advised that a forensic IT firm may be retained to, in addition to reviewing the requisite documentation, and forensically acquire the hard drives and other media that may contain electronic data related to the action.

Further, your client should anticipate the need to disclose and produce system and application metadata and act to preserve it. Please confirm that your client and other appropriate individuals have taken the steps outlined in this letter to preserve any and all tangible documents potentially

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all tangible documents potentially relevant to this action. If your client has not undertaken the steps outlined above, or has taken other actions, please describe what she has done to preserve potentially relevant evidence. If your client has already violated the requested steps outlined above resulting in the deletion of files or documents, please list what files or documents were destroyed, what date they were destroyed, and any other remaining file information, such as what date the document was created or the title of the document.

Should you have any questions regarding this correspondence, please do not hesitate to contact me at your earliest convenience.

Thank you for your cooperation.

Very truly yours,
CALWELL LUCE DITRAPANO, PLLC

By: 
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